

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK**

State Farm Mutual Automobile Insurance Company and	)	
State Farm Fire and Casualty Company,	)	
	)	
Plaintiffs,	)	Case No. 1:17-cv-5845
	)	
v.	)	Hon. Margo K. Brodie
	)	
	)	Magistrate Judge
	)	Vera M. Scanlon
21st Century Pharmacy Inc.,	)	
Albert Alishayev,	)	
Iris Itskhakov a/k/a Istam Itskhakov,	)	
Peter Khaim a/k/a Peter Khaimov a/k/a Petr Khaimov,	)	
Tariel Begiyev,	)	
Express Billing & Collection Inc,	)	
Anturio Marketing, Inc.,	)	
Logic Consulting, Inc.,	)	
P&K Marketing Services Inc,	)	
A&P Holding Group Corp,	)	
New Business Resources Group Inc,	)	
K&L Consultants Inc,	)	
New Business Funding Inc,	)	
TBM Solution Inc,	)	
TAR Group Inc,	)	
Personal Tech Inc,	)	
Timothy Morley, D.O.,	)	
Azu A. Ajudua, M.D.,	)	
Vincentiu Popa, M.D., and	)	
Jo-Ann Shakarjian, M.D.,	)	
	)	
Defendants.	)	

**PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF THEIR MOTION FOR  
DEFAULT JUDGMENT AGAINST DEFENDANTS TARIEL BEGIYEV, NEW  
BUSINESS FUNDING INC, TAR GROUP INC, TBM SOLUTION INC, PERSONAL  
TECH INC, TIMOTHY MORLEY D.O., AND JO-ANN SHAKARJIAN, M.D.**

**TABLE OF CONTENTS**

	<b>Page</b>
I. BACKGROUND .....	1
II. ANALYSIS.....	2
III. CONCLUSION.....	3

**TABLE OF AUTHORITIES**

	<b>Page(s)</b>
<b>Cases</b>	
<i>Bricklayers &amp; Allied Craftworkers Local 2, Albany, N.Y. Pension Fund v. Moulton Masonry &amp; Const., LLC</i> , 779 F.3d 182 (2d Cir. 2015).....	2
<i>Century Sur. Co. v. Euro-Paul Constr. Corp.</i> , 2017 WL 4338790 (E.D.N.Y. Sept. 29, 2017) .....	2
<i>City of N.Y. v. Mickalis Pawn Shop, LLC</i> , 645 F.3d 114 (2d Cir. 2011).....	2
<i>Greyhound Exhibitgroup, Inc. v. E.L.U.L. Realty Corp.</i> , 973 F.2d 155 (2d Cir. 1992).....	2
<i>Long Island Hous. Servs. v. Greenview Props., Inc.</i> , 2008 WL 150222 (E.D.N.Y. Jan. 11, 2008) .....	2
<i>Palma-Castillo v. New Tacolandia Inc.</i> , 2011 WL 7092652 (S.D.N.Y. May 9, 2011) .....	3

## I. BACKGROUND

Pursuant to Federal Rule of Civil Procedure 55(b)(2) and Local Civil Rule 55.2, Plaintiffs State Farm Mutual Automobile Insurance Company (“State Farm Mutual”) and State Farm Fire and Casualty Company (“State Farm Fire,” and together with State Farm Mutual, “Plaintiffs”) respectfully move the Court to enter a default judgment against each defendant who has not appeared or answered the First Amended Complaint filed in this action [Dkts. 132–33] (the “Amended Complaint”). Since being served with the summons and Amended Complaint, and as set forth below, defendants New Business Funding Inc, TBM Solution Inc, TAR Group Inc, Personal Tech Inc, Tariel Begiyev, Timothy Morley, D.O., and Jo-Ann Shakarjian, M.D. (collectively, the “Defaulting Defendants”) have failed to answer or otherwise respond to the Amended Complaint or enter an appearance in this action. The Clerk of Court has entered Certificates of Default as to each.<sup>1</sup>

<b>Defaulting Defendant</b>	<b>Date Served with Summons and Amended Complaint</b>	<b>Date Certificate of Default Entered</b>
New Business Funding Inc	July 29, 2019 (Dkt. 143)	September 27, 2019 (Dkt. 182)
TBM Solution Inc	July 29, 2019 (Dkt. 144)	September 27, 2019 (Dkt. 183)
TAR Group Inc	July 29, 2019 (Dkt. 145)	September 27, 2019 (Dkt. 184)
Personal Tech Inc	July 29, 2019 (Dkt. 146)	September 27, 2019 (Dkt. 185)
Tariel Begiyev	August 7, 2019 (Dkt. 157)	September 27, 2019 (Dkt. 178)
Timothy Morley, D.O.	August 13, 2019 (Dkt. 161)	September 27, 2019 (Dkt. 186)
Jo-Ann Shakarjian, M.D.	August 14, 2019 (Dkt. 162)	September 27, 2019 (Dkt. 187)

Default judgment against the Defaulting Defendants is now appropriate.

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<sup>1</sup> Pursuant to Local Rule 55.2, Exhibit A hereto contains the Clerk’s Certificates of Default entered against each Defaulting Defendant; Exhibit B hereto contains the affidavits of counsel for Plaintiffs requesting that the Clerk of Court enter certificates of default against each Defaulting Defendant; Exhibit C hereto is a copy of the summons and Amended Complaint served on each Defaulting Defendant; Exhibit D hereto is a proposed form of default. Plaintiffs will also submit proof that they mailed this Motion and all supporting papers to each Defaulting Defendant’s last known address.

## II. ANALYSIS

Pursuant to Rule 55, there is “a ‘two-step process’ for the entry of judgment against a party who fails to defend: first, the entry of a default, and second, the entry of a default judgment.” *City of N.Y. v. Mickalis Pawn Shop, LLC*, 645 F.3d 114, 128 (2d Cir. 2011) (citing *New York v. Green*, 420 F.3d 99, 104 (2d Cir. 2005)). Because the Clerk has made an entry of default against each Defaulting Defendant, each is deemed to have admitted all of the well-pleaded allegations in the Amended Complaint pertaining to liability. *See Greyhound Exhibitgroup, Inc. v. E.L.U.L. Realty Corp.*, 973 F.2d 155, 158 (2d Cir. 1992). For entry of default judgment, the court must find that the admitted factual allegations establish liability as a matter of law. *Bricklayers & Allied Craftworkers Local 2, Albany, N.Y. Pension Fund v. Moulton Masonry & Const., LLC*, 779 F.3d 182, 187 (2d Cir. 2015); *Century Sur. Co. v. Euro-Paul Constr. Corp.*, 2017 WL 4338790, at \*3 (E.D.N.Y. Sept. 29, 2017) (Brodie, J.).

The factual allegations pleaded establish the appropriateness of a judgment against each Defaulting Defendant. Specifically, the Amended Complaint sufficiently pleads that (a) Begiyev is liable for common-law fraud, aiding-and-abetting fraud, and unjust enrichment; (b) shell companies TBM Solution, TAR Group, and New Business Funding are liable for aiding-and-abetting fraud; and (c) Morley and Shakarjian are liable for common-law fraud, aiding-and-abetting fraud, unjust enrichment, and for violations of RICO. *See, e.g.*, Am. Compl. ¶¶ 207–306.

The Amended Complaint also alleges the Defaulting Defendants and the other defendants are jointly and severally liable. While a default judgment as to liability may be entered now, Plaintiffs do not seek a calculation of damages or a judgment in a specific damages amount against any Defaulting Defendant at this time. However, Plaintiffs request they be permitted to do so when the claims against all defendants named in these counts are resolved. *See Long*

*Island Hous. Servs. v. Greenview Props., Inc.*, 2008 WL 150222, at \*1 (E.D.N.Y. Jan. 11, 2008); *Palma-Castillo v. New Tacolandia Inc.*, 2011 WL 7092652, at \*2 (S.D.N.Y. May 9, 2011). If default judgment is entered as to the Defaulting Defendants, Plaintiffs would thus defer seeking a hearing on damages and entry of a final judgment as to damages.

### **III. CONCLUSION**

Accordingly, Plaintiffs request the Court enter a default judgment against (a) Morley, Shakarjian, and Begiyev on the common-law fraud and unjust-enrichment counts asserted against them (Counts 1, 3, 4, 6, 7, 9, 10, 12, 13, and 15); (b) Morley, Shakarjian, Begiyev, New Business Funding, TBM Solution, TAR Group, and Personal Tech as to the aiding-and-abetting counts asserted against them (Counts 2, 5, 8, 11, and 14); and (c) Morley and Shakarjian as to the civil RICO and RICO conspiracy counts asserted them (Counts 16 and 17). As to any claim asserted against any Defaulting Defendant, Plaintiffs further request that the Court order they be held jointly and severally liable.

Dated: October 30, 2019

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on October 30, 2019, I served the Notice of Motion, Memorandum in Support and Exhibits on Timothy Morley, Jo-Ann Shakarjian, Taniel Begiyev, Personal Tech, New Business Funding, TBM Solution, and TAR Group via first-class mail at the following addresses:

Taniel Begiyev  
150-22 78th Rd.  
Flushing, NY 11367

New Business Funding Inc  
147-45 78th Rd.  
Flushing, NY 11367

TBM Solution Inc  
117 S. 4th St. Suite 206  
New Hyde Park, NY 11040

TAR Group Inc  
150-20 78th Rd.  
Flushing, NY 11367

Personal Tech Inc  
141-30 Pershing Crescent #11  
Jamaica, NY 11435

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